

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

FEDERAL TRADE COMMISSION,
et al.

Plaintiffs,

v.

SYNGENTA CROP PROTECTION
AG, et al.

Defendants.

CASE NO. 1:22-CV-828

**MEMORANDUM IN SUPPORT OF
MOTION TO FILE UNDER SEAL
PORTIONS OF CORTEVA, INC.’S
MEMORANDUM IN SUPPORT OF
ITS MOTION TO DISMISS THE
COMPLAINT**

Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and Rule 5.4 of the Local Rules of Practice and Procedure, Defendant Corteva, Inc. (“Corteva”) submits this memorandum in support of its Motion to File Under Seal Portions of Corteva’s Memorandum in Support of its Motion to Dismiss (the “Memorandum”). Corteva respectfully requests that this Court preserve the narrow redactions in the proposed public version of the Memorandum filed by Corteva.

On December 23, 2022, the Federal Trade Commission (the “FTC”) and twelve state attorneys general (collectively, the “Plaintiffs”) filed a first amended complaint, Doc. 79 (the “FAC”), that contains Corteva’s non-public, confidential, and competitively sensitive business information, the disclosure of which would significantly harm Corteva. Corteva filed a brief in response to Plaintiffs’ motion to keep portions of the FAC under seal, (Doc. 88, the “Response”), and filed a

declaration in support of the Response, (Doc. 88-1, the “Kaehler Decl.”).

Plaintiffs did not oppose Corteva’s request to seal portions of the FAC. Corteva now seeks to seal narrow portions of its Memorandum that cite portions of the FAC that contain Corteva’s non-public, confidential, and competitively sensitive business information, as discussed in the Response and the Kaehler Decl.

Corteva rests on the arguments articulated in the Response filed at Doc. 88. Corteva notes that the First Amendment right of access governs the sealing of information contained in a motion to dismiss. *See Rushford v. New Yorker Mag., Inc.*, 846 F.2d 249, 252 (4th Cir. 1988) (applying the First Amendment standard to information “made part of a dispositive motion”). This is the same standard that governs the sealing of information contained in a complaint. *See Courthouse News Serv. v. Schaefer*, 2 F.4th 318, 327–28 (4th Cir. 2021).

Corteva respectfully requests that the information contained in the FAC and referenced in the Memorandum remain sealed. Corteva produced this information to the FTC in a non-public investigation that preceded the filing of the FAC, and it designated all information produced pursuant to that investigation as confidential. (Kaehler Decl. ¶ 6.) Corteva takes reasonable steps to maintain the confidentiality of this information, and it is of limited public interest. Therefore, Corteva respectfully requests that the Court permanently seal Corteva’s confidential information and order a redacted version of the Memorandum be publicly filed.

Respectfully submitted this 13th day of January, 2023.

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83.1(d)

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2023, I caused the foregoing MEMORANDUM IN SUPPORT OF MOTION TO FILE UNDER SEAL PORTIONS OF CORTEVA'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS THE COMPLAINT, and all attachments thereto, to be filed electronically with the Clerk of Court via the Court's CM/ECF system. Counsel for all parties in this case are registered CM/ECF users and will be served by the CM/ECF System.

This the 13th day of January, 2023.

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CERTIFICATE OF WORD COUNT

The undersigned certifies that this Brief is in compliance with Rule 7.3(d)(1) of the Local Rules for the Middle District of North Carolina because it contains fewer than 6,250 words.

This the 13th day of January, 2023.

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